IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.GIRI

FRIDAY, THE 14TH DECEMBER 2007 / 23RD AGRAHAYANA 1929

WP(C).No. 30566 of 2007(L)

PETITIONER:

P.JOSEPH GEORGE, S/O. JOSEPH,
AGED 56 YEARS, KUZHIKANDATHIL HOUSE,
PUDUPPADY P.O., KOZHIKODU DISTRICT.
(SENIOR ACCOUNTANT, DISTRICT TREASURY,
THAMARASSERY. (RETIRED)).

BY ADV. SMT.K.S.SAIRA
SRI.A.ANILKUMAR

RESPONDENTS:

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1. THE STATE OF KERALA, REPRESENTED BY
THE SECRETARY TO GOVERNMENT, REVENUE DEPARTMENT,
SECRETARIAT, THIRUVANANTHAPURAM.

2. DIRECTOR OF TREASURIES,
THIRUVANANTHAPURAM.

3. DISTRICT TREASURY OFFICER,
THAMARASSERY.

BY GOVERNMENT PLEADER MANOJ KUMAR

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 14/12/2007, ALONG WITH WPC NO. 31396 OF 2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

V.GIRI, J

W.P.(C)s. 30566/2007 & 31396/2007

Dated this the 14th day of December, 2007

JUDGMENT

Issues raised for consideration in these two cases are common. Therefore, they are disposed of by a common judgment. Both the petitioners have retired from the Treasury Department.

2. The petitioner in W.P.(C).30566/2007 was appointed as Treasurer with effect from 21.12.1992. He was granted time bound higher grade in the cadre of Treasurer with effect from 19.11.1998, on completion of more than eight years of service. Petitioner's pay was accordingly fixed. He was subsequently granted regular promotion to the cadre of Senior Accountant and retired on superannuation on 31.5.2006, while working as Senior Accountant.

3. In so far as the petitioner in W.P.(C).31396/2007 is concerned, he started service as Junior Accountant in the Treasury Department on 11.10.1984. He was allowed

category change and was promoted as Treasurer by order dated 10.7.1991. He was then promoted as Senior Accountant with effect from 26.7.1994 and on completion of eight years of service in the cadre of Treasurer was granted time bound Higher Grade with effect from 6.8.1999. Consequently his pay was fixed. He was then promoted as Senior Accouontant and retired on superannuation on 31.5.2006.

4. In the case of both the petitioners, retirement benefit, calculated on the basis of their NLC, has been sanctioned by the Accountant General. Regular pension is being disbursed to the petitioners. But there is delay in the disbursal of DCRG and hence these writ petitions.

5. In the statement filed on behalf of the second respondent as directed by this Court, it is contended that the post of Treasurer is not a promotion post of Accountant. Treasurer is appointed by transfer from Accountants. Accordingly, post of Treasurer is an entry cadre. Reference is made to the Government Letter

dated 23.10.2003 wherein it was ordered that the sanction of Higher Grade to Treasurer counting the service in the post of Treasurers is irregular. Accordingly Government proceeded to cancel the sanctioning of Higher Grade to Treasurers and apparently directions were issued to the Deputy Directors in the District Treasury Officers to recover the excess amount drawn due to the sanction of the alleged irregular Higher Grade.

6. I am of the view, that if the Government proposed to cancel the sanctioning of Higher Grade on completion of eight years of service in the post of Treasurer, on the premise that the post of Treasurer is not a promotion post, but an entry cadre, then there are two things which have to be done. Firstly, a notice must be issued to the incumbent calling for his objections. Secondly, if it is found that the grant of the Higher Grade is irregular in terms of the orders which provide for time bound Higher Grade, then concerned incumbent must be granted an opportunity of

exercising option with regard to the scale of pay available to him consequent upon pay revision. There cannot be a recovery of alleged excess amounts drawn by the incumbent merely consequent upon the cancellation of the Higher Grade, even if it is assumed that sanctioning of time bound Higher Grade ought not to have been done on completion of eight years of service in the post of Treasurer by treating the same as a promotion post as such. Matter requires consideration by the Government.

In the result, writ petitions are disposed of in the following terms.

(a). Second respondent shall issue individual notices to the petitioners indicating the grounds on which time bound Higher Grade granted on completion of eight years of service for the post of Treasurer is proposed to be cancelled. This shall be done within one month from the date of receipt of a copy of this judgment.

(b). Petitioner shall then file objections to the said proposal.

(c). Petitioners shall be heard and then an order may be passed by the second respondent after adverting to their objections. If it is found that the sanctioning of the Higher Grade is irregular, then the petitioners shall be granted an opportunity for exercising option, in the manner indicated above. Question as to whether any excess amount has been drawn by the petitioner, shall be decided only thereafter. The entire process as outlined above, shall be completed within four months from the date of receipt of a copy of this judgment and the DCRG due to the petitioner shall be disbursed within one month thereafter.

V.GIRI,
Judge

mrcs